



## ***Texas Department of Insurance***

### ***Division of Workers' Compensation***

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## ***MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION***

### ***GENERAL INFORMATION***

#### **Requestor Name and Address**

SOUTH AUSTIN SURGERY CENTER  
4207 JAMES CASEY SUITE 203  
AUSTIN TX 78745

#### **Respondent Name**

STATE OFFICE OF RISK MANAGEMENT

#### **Carrier's Austin Representative Box**

Box Number 45

#### **MFDR Tracking Number**

M4-06-6892-02

#### **MFDR Date Received**

JUNE 29, 2006

### ***REQUESTOR'S POSITION SUMMARY***

**Requestor's Position Summary:** "These services were reviewed and authed by the carrier prior to service. While we understand that most of these codes are unlisted codes we request that you review the charges for payment due to the high cost of the procedures. Rule 134.402 states that a negotiation may be done prior to the service but most carriers are unwilling to do negotiations on these procedures. Attached you will find a list showing our cost (not including billable implants) for a basic anterior cervical discectomy with fusion at two levels."

**Amount in Dispute:** \$29,771.60

### ***RESPONDENT'S POSITION SUMMARY***

**Respondent's Position Summary dated July 21, 2006:** "In review of the disputed charges and codes, the office will maintain its denials for 5 and RB7. It is improper to bill SG modifier with these service codes."

**Response Submitted by:** State Office of Risk Management

**Respondent's Supplemental Position Summary dated August 3, 2006:** "In review of the dispute packet submitted by the requestor South Austin Surgery Center for date of service 07/11/05, The Office determined reimbursement for CPT codes 63075(-SG), 63076(-SG), 22554(-SG), 22585(-SG), 22845(-SG), 63081(-SG), 63082(-SG), 63082(-SG)(-59), 22845(-SG) and 20931(-SG) would remain denied based on the ANSI code '5: the procedure code is inconsistent with the place of service' It appears the requestor is billing for services that are not included on the list of Medicare approved ASC procedures. The Office will also maintain denial of additional reimbursement for HCPCS code L8699 since reimbursement for the implants was issued at cost plus ten percent to the facility. Attached, marked Exhibit I is a copy of the implant invoice submitted by the requestor at the time of audit...Based on the rule referenced above it appears the Office has erroneously made an overpayment for HCPCS code L8699 in the amount of \$394.50."

**Response Submitted by:** State Office of Risk Management

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 11, 2005	Ambulatory Surgical Center (ASC) Services – CPT Code 63075-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 63076-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 22554-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 22585-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 22845-SG (X2)	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 63081-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 63082-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 63082-59-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – CPT Code 20931-SG	\$2,817.61	\$0.00
July 11, 2005	ASC Services – HCPCS Code L8699	\$1,595.50	\$0.00
TOTAL		\$29,771.60	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.402, titled *Ambulatory Surgical Center Fee Guideline*, effective March 10, 2005, sets out the reimbursement guidelines for ambulatory surgical care services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

#### Explanation of benefits

- 106-Provide invoice showing cost for reimbursement.
- 5-Proc Code or Bill Type Inconsistent with POS.
- B15-Procedure/Service is not paid separately.
- R84-CCI; Most Extensive Procedures.
- RB7-Procedure Code invalid for ASC.
- W1-Workers' Compensation Stte Fee Schedule Adj.
- 304-Submit Supply House Invoice for additional payment.
- 97-Charge Included in another Charge or Service.
- R79-CCI; Standards of Medical/Surgical Practice.
- R89-CCI; Misuse of Column 2 code with Column 1 code.
- SG-Ambulatory Surgical Center (ASC) Facility Service.
- 070-Requested information not provided or incomplete.
- 18-Duplicate Claim/Service.
- R1-Duplicate Billing.
- W4-No additional payment allowed after review.
- 510-Payment Determined.
- B7-Provider not certified/eligible to perform svc.
- W10-Payment based on fair & reasonable methodology.
- 59-Distinct Procedural Service.

## **Issues**

1. Does the documentation support billing of two units of CPT code 22845?
2. Were the disputed services , CPT codes 63075-SG, 63076-SG, 22554-SG, 22585-SG, 22845-SG, 63081-SG, 63082-SG, 63082-SG-59, 22845-SG, and 20931-SG, billed in accordance with 28 Texas Administrative Code §134.402?
3. Is the requestor entitled to additional reimbursement for HCPCS code L8699?

## **Findings**

1. A review of the Table of Disputed Services indicates the requestor listed CPT code 22845 twice. A review of the submitted medical bill and explanation of benefits, supports billing and audit of one unit of CPT code 22845; therefore, only one unit will be considered in this review.
2. According to the explanation of benefits, the insurance carrier denied reimbursement for 63075-SG, 63076-SG, 22554-SG, 22585-SG, 22845-SG, 63081-SG, 63082-SG, 63082-SG-59, 22845-SG, and 20931-SG, based upon reason codes "5, RB7, and/or B7".

28 Texas Administrative Code §134.402(b) states "For coding, billing, reporting, and reimbursement of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section."

CPT codes 63075-SG, 63076-SG, 22554-SG, 22585-SG, 22845-SG, 63081-SG, 63082-SG, 63082-SG-59, 22845-SG, and 20931-SG are not on the ASC List of Medicare Approved Procedures or listed in subsection 28 Texas Administrative Code §134.402 (e)(2).

28 Texas Administrative Code §134.402(e)(3), states "If a service is not included on the ASC List of Medicare Approved Procedures or listed in subsection (e)(2) of this section, the insurance carrier (carrier), health care provider, and ASC may agree to an ASC setting as follows:

(A) The agreement may occur before, during, or after preauthorization.

(i) A preauthorization request may be submitted for an ASC setting only if an agreement has already been reached and a copy of the signed agreement is filed as a part of the preauthorization request.

(ii) A preauthorization request or approval for a non-ASC facility setting may be revised to an ASC setting by written agreement of the carrier and the health care provider during or after preauthorization.

(B) The agreement between the carrier and the ASC must be in writing, in clearly stated terms, and include:

(i) the reimbursement amount;

(ii) any other provisions of the agreement; and

(iii) names, titles and signatures of both parties with dates.

(C) Copies of the agreement are to be kept by both parties.

(D) Upon request of the Commission, the agreement information shall be submitted in the form and manner prescribed by the Commission."

The requestor states in the position summary that "These services were reviewed and authed by the carrier prior to service. While we understand that most of these codes are unlisted codes we request that you review the charges for payment due to the high cost of the procedures. Rule 134.402 states that a negotiation may be done prior to the service but most carriers are unwilling to do negotiations on these procedures."

In support of the position, the requestor submitted a copy of a preauthorization report dated June 14, 2005 that states "Recommend AUTHORIZATION of outpatient C6-7 and probable C4-5 anterior cervical microdiscectomy, ostophylectomy, bilateral foraminotomies possible partial coprectomies interbody fusions, anterior instrumentation." The preauthorization report was addressed to St. Davids Hospital not South Austin Surgery Center. The requestor did not submit documentation to support that at the time preauthorization was sought an agreement had been reached that the services would be performed at an ASC in accordance with 28 Texas Administrative Code §134.402(e)(3)(A)(i). In addition, the requestor did not support that once preauthorization was obtained that an agreement was reached that the setting for the services was going to be an ASC in accordance with 28 Texas Administrative Code §134.402(e)(3)(A)(ii).

The requestor did not submit a written agreement with clearly stated terms in accordance with 28 Texas Administrative Code §134.402(e)(3)(B); therefore, reimbursement cannot be recommended.

3. 28 Texas Administrative Code §134.402(e)(4) states "The carrier shall reimburse all surgically implanted, inserted, or otherwise applied devices at the lesser of the manufacturer's invoice amount or the net amount

(exclusive of rebates and discounts) actually paid for such device to the manufacturer by the ASC. Provider billing shall include a certification that the amount sought represents its actual cost (net amount, exclusive of rebates and discounts). That certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

The requestor submitted a copy of a DePuy Spine invoice for a "Slim-loc self-drilling screw 14mm" and "Slim-loc level plate 57mm" for \$3,945.00.

In accordance with 28 Texas Administrative Code §134.402(e )(4) the total amount due the requestor is \$3,945.00. The respondent paid \$4,339.50. As a result, additional reimbursement cannot be recommended.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that the requestor has not supported its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____ Signature	_____ Medical Fee Dispute Resolution Officer	<u>2/5/2013</u> Date
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### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**